

DEPARTMENT
OF
SOCIAL AND HEALTH SERVICES

CHILDREN'S
ADMINISTRATION

INDIAN CHILD WELFARE

MANUAL

**CHILDREN'S ADMINISTRATION
INDIAN CHILD WELFARE MANUAL**

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PREFACE

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PREFACE

INTRODUCTORY MEMORANDUM

September 15, 2000

TO: Tribal Leaders, Indian Organizations, Children's
Administration Staff, and Interested Parties

FROM: Members of the Indian Child Welfare Procedures Manual
Revision Task force

SUBJECT: **REVISED CHILDREN'S ADMINISTRATION INDIAN CHILD
WELFARE MANUAL**

The department first issued the Children's Administration (CA) *Indian Child Welfare Manual* September 1, 1991. The manual set out procedures on how Division of Children and Family Services (DCFS) field staff should implement the Tribal/State Indian Child Welfare (ICW) Agreement of 1987 and federal and state laws and regulations. After five years, CA determined that the *Indian Child Welfare Manual* needed update and revision.

On March 21, 1997, the *Indian Child Welfare Manual* Revision Task Force met for the first time. The Task Force included representatives from the Tribes, tribal organizations, CA field staff and program managers, and the Attorney General's Office. CA intended not to re-write the manual, but to review and update, clarify, and add information that would assist CA and child placing agencies' staff in complying with the federal Indian Child Welfare Act (ICWA).

The *Indian Child Welfare Manual* Revision Task Force included many committed individuals, too numerous to mention. We do however, want to particularly applaud and thank former Assistant Attorney General Lee Ann Miller for her hard work and invaluable contributions to this project.

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Lee Ann was also involved in the original negotiations that culminated in the Tribal/State ICW Agreement. Lee Ann lent her writing skills to the drafting of the first *Indian Child Welfare Manual*. In addition, she convened the Tribal/State work group that drafted proposed ICW provisions for the Washington Administrative Code (WAC). She was deeply and passionately involved during the first year of the two years it took us to complete these *Indian Child Welfare Manual* revisions.

Unfortunately, Lee Ann was unable to see the result of her labor due to her untimely death in March 1998. Needless to say, the Task Force greatly missed Lee Ann's experience, insight, and knowledge, and the core group members want to acknowledge her contributions.

This revised *Indian Child Welfare Manual*, like the first manual, intends to incorporate those portions of the Tribal/State Agreement that can be implemented through a manual. If followed, staff will be in compliance with ICWA, state statutes, regulations, and policies. We hope that the revisions will assist CA staff charged with providing much needed services to Indian children in Washington State to do so in an effective and efficient manner.

HISTORICAL MEMORANDUM

The following memorandum provided an introduction to the original *Indian Child Welfare Manual*, issued September 1, 1991.

TO: Tribal Leaders/Indian Organizations/Interested Parties

FROM: Members of the Indian Child Welfare Tribal/State Agreement
Negotiating Team

DATE: March 28, 1990

SUBJECT: **DCFS INDIAN CHILD WELFARE MANUAL**

The primary purpose of this *Indian Child Welfare Manual* is to partially implement a formal agreement between 20 Tribes and the state. The Department of Social and Health Services (DSHS) subsequently adopted it as the statewide policy in order to extend the agreement's protections to all Indian children in the state. The agreement governs the Indian Child Welfare (ICW) procedures and practices of the state and state licensed agencies and seeks to maximize the opportunity for tribal participation in every phase of agency decision-making affecting Indian children.

The effort to secure this agreement with the state began in 1983 when representatives of five Olympic Peninsula Tribes met in Port Angeles to develop a strategy to tackle what the Tribes considered to be egregious state non-compliance with Indian Child Welfare Act requirements. These discussions continued through early 1984. By May 1984, tribal representation had increased to include all ten Olympic Peninsula Tribes and several other Western Washington Tribes. A plan to develop a multi-Tribe agreement that would be presented to the state for negotiation was endorsed.

From May 1984 until May 1985, the tribal representatives met regularly to identify issues and draft a proposed agreement. A final draft agreement was approved by the tribal representatives in May 1985. The agreement was developed with input from most of the Tribes in the state.

In September 1985, tribal representatives had their first negotiating session with the Director of Division of Children and Family Services (DCFS) and various DCFS staff. Agreement was finally reached in August 1987 and was subsequently signed by Governor Gardner in November 1987 and approved by 20 Tribes.

The agreement cements a government-to-government tribal/state partnership that recognizes the paramount sovereign interest of Tribes in decision-making involving the care, custody, and control of Indian children.

Following approval of the agreement, tribal and state representatives worked on the preparation of this DCFS manual as part of the plan to implement the provisions of the agreement. Preparation of a final draft of the manual was completed in February 1990. The manual is intended to, and for the most part does, fully and accurately incorporate those portions of the tribal/state agreement that can be implemented through a manual. However, the manual has not yet been reviewed to determine whether this purpose has been entirely accomplished. Revisions may be necessary to fully achieve this goal.

While the intention is to submit this draft manual to interested persons for comment and to modify the manual as necessary to address concerns raised by reviewers, those provisions of the manual that directly implement the tribal/state agreement cannot be changed.

The adoption of this manual does not complete the implementation of the tribal/state agreement and does not complete the institutionalization of systems necessary to address the full scope of ICW needs in the state. Full implementation of the tribal/state agreement requires certain changes in DCFS policies and regulations and purchase of service contracts with Tribes that would enable Tribes to supplant the state as the primary service provider for Indian children and families. It is expected that steps to accomplish full implementation will proceed expeditiously. When fully implemented, the tribal/state agreement will establish the strongest commitment in the United States of any state and Tribes to child welfare practices that are sensitive to Indian culture and that respect tribal sovereignty.

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Also, in order to comprehensively address ICW needs, tribal/state agreements with other divisions of DSHS and with other departments having child welfare related responsibilities must be negotiated.

Respectfully submitted,

Gary Peterson
Jan Goslin
Michelle Aguilar
Bertram Hirsch, Attorney

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